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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,354	08/27/2001	Kenichi Miyoshi	L9289.01176	3668

7590 11/03/2004
Stevens Davis Miller & Mosher
Suite 850
1615 L Street NW
Washington, DC 20036

EXAMINER

WARE, CICELY Q

ART UNIT PAPER NUMBER

2634

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/914,354	Applicant(s) MIYOSHI, KENICHI	
	Examiner Cicely Ware	Art Unit 2634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. Pg. 5, lines 8-9, applicant uses the phrase "signals, which serves as received". Examiner suggests using "signals, which serve as received" for clarification purposes.
 - b. Pg. 6, lines 18-19, applicant uses the phrase "subjected or not has been subjected". Examiner suggests using "subjected to or has not been subjected to" for clarification purposes.
 - c. Pg. 6, lines 24-26, examiner suggests applicant re-write these lines for clarification purposes.
 - d. Pg. 8, lines 22-24, examiner suggests applicant re-write these lines for clarification purposes.
- Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

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patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 5, 6 and 7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,002,727. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 5, 6 and 7 of the instant application are encompassed by claim 1 of US Patent 6,002,727:

(1) Claim 1 of 6,002,727 recites an interference signal cancellation system, comprising: a CDMA demodulator disposed for each of a plurality of diffusion codes and having a matched filter and an identifier.

Claims 1, 5, 6 and 7 of the instant application recite an interference signal canceling apparatus comprising: a calculator for calculating likelihood of each symbol included in a received signal.

(2) Claim 1 of 6,002,727 recites a likelihood calculator for each of said CDMA demodulators; a first buffer for storing provisional decision values; a second buffer for storing likelihoods; an order determining device for determining an order according to the likelihoods stored in said second buffer.

Claims 1, 5, 6 and 7 of the instant application recites a setter for setting likelihood for rank decision from the calculated likelihood on a predetermined block-by-block basis; a decider for deciding a rank with respect to each block based on the set likelihood.

(3) Claim 1 of 6,002,727 recites a resreading device for performing resreading according to the order determined by said order determining device.

Claims 1, 5, 6 and 7 of the instant application recites a spreader for spreading a symbol having the highest rank on the block-by-block basis.

(4) Claim 1 of 6,002,727 recites a subtractor for subtracting a result of the resreading from data of the signal delayed by said delay device.

Claims 1, 5, 6 and 7 of the present application recites and a remover for removing the spread symbol from the received signal on the block-by-block basis.

US Patent 6,002,727 does not explicitly disclose mobile and base stations. However it is well known in the art that interference cancellation methods are implemented in both.

Allowable Subject Matter

5. Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The instant application discloses an interference signal canceling apparatus. Prior art references show similar methods but fail to teach: **“wherein said setter sets an average value of likelihood of symbols included in the predetermined block as likelihood for rank decision, and said decider decides the rank with respect to each block based on the likelihood averaged on the block-by-block basis”, as in claim 2, “wherein said setter sets any one of likelihood of symbols included in the predetermined block as likelihood for rank decision, and said decider decides the rank with respect to each block based on any one of the likelihood”, as in claim 3, “wherein when signals having a plurality of symbol rates are multiplexed into the received signal, said setter sets likelihood for rank decision on the block-by-block basis using a length of a symbol having the lowest symbol rate of the plurality of symbol rates as a block length”, as in claim 4.**

Conclusion

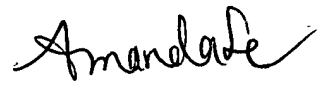
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cicely Ware whose telephone number is 571-272-3047. The examiner can normally be reached on Monday – Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 571-272-3056. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Cicely Ware

cqw
October 21, 2004


AMANDA T. LE
PRIMARY EXAMINER